

Exhibit A

From: Warren Thomas <wthomas@mcciplaw.com>
Sent: Monday, July 3, 2023 3:51 PM
To: Tamkin, Greg; John Harbin
Cc: jgrant@foxrothschild.com; Shoaiei, Maral; Schmidt, Kent; Bjorklund, Shannon
Subject: RE: BDC v. ViVitro

EXTERNAL FROM OUTSIDE DORSEY. BE CAUTIOUS OF LINKS AND ATTACHMENTS.

Hi Greg, this email follows up on your message below and our call this morning.

ViVitro opposes BDC's request for a hearing before August 15 as you've proposed. Among other things, while we don't know all the details, we at least know we have issues with availability between July 25 and second week of August (one witness is in Europe for three weeks, and another is traveling each of the first two weeks of August). That said, while ViVitro does not believe a hearing before the Court's stated availability is necessary, ViVitro would not oppose (though would not join) a request for a hearing after September 6. (Note, we do not know witness availability for that period in September.)

Warren Thomas

Principal

wthomas@mcciplaw.com | mcciplaw.com



MEUNIER CARLIN & CURFMAN IP LAW

999 Peachtree Street NE, Suite 1300 | Atlanta, GA 30309

Office 404-645-7700 Direct 678-771-7781 Fax 404-645-7707

NOTICE: This e-mail message and its attachments may contain legally privileged and confidential information intended solely for the intended recipient's use. If you are not the intended recipient, you may not read, copy, distribute, or otherwise use this message, its attachments, or information therein. If you have received this message in error, please (1) notify the sender immediately by e-mail and (2) delete all copies of this message immediately. Thank you.

From: Tamkin.Greg@dorsey.com <Tamkin.Greg@dorsey.com>
Sent: Friday, June 30, 2023 12:42 PM
To: Warren Thomas <wthomas@mcciplaw.com>; John Harbin <jharbin@mcciplaw.com>
Cc: jgrant@foxrothschild.com; Shoaiei.Maral@dorsey.com; Schmidt.Kent@dorsey.com; bjorklund.shannon@dorsey.com
Subject: BDC v. ViVitro

Caution: This email originated from outside your organization.

Warren and John,

Based on the Court's Reassignment Order entered yesterday afternoon, I am reaching out to see whether you would be agreeable to us requesting a conference to request that the court schedule an evidentiary hearing on the preliminary injunction for no later than August 15th. As you know, BDC filed a preliminary injunction motion on behalf of on April 12, 2023 in the District of Colorado. [Dkt. 8]. On April 19th, Judge Kane scheduled a preliminary injunction hearing for June 6-7, 2023. [Dkt. 11]. Following ViVitro's motion for dismiss, on May 29th, Judge Kane transferred the case to the Central District of California. [Dkt. 28]. The case was then assigned to Judge Klausner on June 7th. Judge Klausner set a case management conference for July 17th. After the parties jointly requested that they be permitted to re-file their previously filed briefs regarding the preliminary injunction motion, Judge Klausner denied the request and directed the parties to follow his formatting requirements. [Dkt. 53]. In turn, we re-filed our motion for preliminary injunction and

supporting papers on June 26. [See Dkt. 60-63]. Pursuant to Judge Klausner's rules, the hearing on the preliminary injunction motion was set for July 24th.

Thereafter, the case was re-assigned to Judge Vera, who was recently appointed to the federal bench. Judge Vera issued an order in all his cases vacating all law and motion dates and vacating all pretrial conferences scheduled prior to January 1, 2024. [Dkt. 65]. As we read Judge Vera's order, there will be no hearing on the preliminary injunction motion until October, at the earliest. BDC intends to take some action such that a hearing can take place prior to ViVistro's announced first delivery date of September.

Accordingly, pursuant to the Local Rules, we plan to file an *Ex Parte* Application requesting briefing schedule and evidentiary hearing on BDC's motion so that the matter can be heard on or before August 15. We believe this will be efficient for both parties and will avoid any further delay. We are also happy to work with you on a preferred date and briefing schedule to avoid interfering with vacation plans, etc.

Please either let us know if you are available to discuss the requested relief later today or Monday morning. Thank you.

Regards,

Greg

Gregory S. Tamkin

Partner, Trial Department Co-Head
Management Committee Member



DORSEY & WHITNEY LLP
1400 Wewatta Street
Suite 400 | Denver, CO 80202-5549
P: 303.629.3438 F: 303.629.3450 C: 303.725.5538

WWW.DORSEY.COM :: [DENVER](#) :: [BIO](#) :: [V-CARD](#)

CONFIDENTIAL COMMUNICATION

E-mails from this firm normally contain confidential and privileged material, and are for the sole use of the intended recipient. Use or distribution by an unintended recipient is prohibited, and may be a violation of law. If you believe that you received this e-mail in error, please do not read this e-mail or any attached items. Please delete the e-mail and all attachments, including any copies thereof, and inform the sender that you have deleted the e-mail, all attachments and any copies thereof. Thank you.